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NATIONAL SECURITY COUNCIL

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WASHINGTON, D.C. 20506

February 4, 1982

MEMORANDUM FOR MS. NANCY BEARG DYKE
Assistant to the Vice President for
National Security Affairs

MR. L. PAUL BREMER III
Executive Secretary
Department of State

MR. DAVID PICKFORD
Executive Secretary
Department of the Treasury

LIEUTENANT COLONEL ROBERT T. MEEHAN
Assistant for Interagency Matters
Office of the Secretary of Defense

MR. F. HENRY HABICHT
Special Assistant to the Attorney General

MS. JEAN JONES
Director, Executive Secretariat
Department of Commerce

MR. WILLIAM VITALE
Executive Secretary
Department of Energy

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Executive Secretary
Central Intelligence Agency

MR. DENNIS WHITFIELD
Executive Assistant to the United States
Trade Representative

MS. JACKIE TILLMAN
Executive Assistant to the United States
Representative to the United Nations

COLONEL CHARLES F. STEBBINS
Executive Assistant to the
Chairman, Joint Chiefs of Staff

SUBJECT: National Security Council Meeting, Thursday,
February 4, 1982 (C)

Attached are additional papers for the agenda item on Libya
for discussion at today's National Security Council meeting. (C)

Michael O. Wheeler
Michael O. Wheeler
Staff Secretary

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NSC Staff Summary of State Paper
for February 4, 1982 NSC Meeting
NEXT STEPS ON LIBYA

INTRODUCTION

Two December NSC meetings on Libya focused on the broad pattern of Libyan activity threatening to the US and on the specific Libyan threat to assassinate key US officials here or abroad. A status report on actions ordered by the President on December 10, 1981 was given at the NSC meeting of January 21, 1982.

The basic decisions before the February 4, 1982 NSC meeting concern whether to revalidate and then activate the next steps toward Libya discussed in December regarding the broad and long lasting Libyan threat rather than the proximate threat of terrorist hit squads. Revalidation involves inter alia giving approval to the contingency planning that focuses on the short term assassination threat as well as the broader Libyan threat in light of changed circumstances in Libya, the region, and in the world.

The primary issues to be decided now are whether and when to embargo imports of Libyan oil; to embargo US exports to Libya; to undertake additional measures against Libya, such as transaction controls, selective export controls, and export licensing requirements. Also, the February 4 meeting will consider the advisability and appropriate timing of another US naval exercise in the Gulf of Sidra.

CURRENT LIBYAN BEHAVIOR

Libyan support of international terrorism and subversion of regimes friendly to the US continue. The assassination threat against US officials may be viewed from the perspective of the broad pattern of Libyan support of international terrorism and subversion in the Middle East, Africa, and in Central America.

US OBJECTIVES

Objectives in December were limited, i.e., 1) to deter attacks against US targets; 2) to ensure the safety of Americans in Libya so that future US freedom of action would be greater.

Objectives in February are broader, i.e., 1) to pressure or coerce Libya to cease such policies as international terrorism and subversion of regimes friendly to the US; and 2) to isolate Libya in the world community and to drive a wedge between Libya and Arab regimes friendly to the US.

An important first step, now that the Americans have been withdrawn, is to remove the inconsistency between US political and economic policies toward Libya. Implementation of the economic measures

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under consideration here (the oil embargo, an embargo of exports to Libya, and a ban on commercial transactions by U.S. firms within Libya) will prevent continuation of the current cycle whereby U.S. oil income and production expertise plus the export of U.S. technology translate into Libyan income. This income is then used to purchase advanced Soviet weaponry and to spread terrorism and subversion in the region, in Europe through indirect funding of terrorists there, and, most recently, reaching to the United States itself.

CHANGES SINCE DECEMBER 10, 1981

Poland

Since the US has asked the allies to take economic sanctions against Poland and the USSR, even unilateral American sanctions against Libya may increase the strains within the alliance. Europeans resent unilateral attempts to control the final disposition of American exports or to control US subsidiaries overseas -- extraterritorial enforcement of U.S. embargoes. The U.S. currently imposes export controls on over 20 countries, which the Europeans think is excessive. Also, the Soviets might use U.S. actions against Libya as a means of diverting attention from Poland and as a way of dividing the U.S. from the allies. Imposition of a U.S. import embargo against Libya would not strain American ties with the allies. Even a unilateral export ban could cause strains to the degree that the U.S. applies it to American subsidiaries overseas and to the control of reexports.

The U.S. faces a dilemma here: in order to be effective to the maximum degree from an economic standpoint, the prohibition against exports to Libya would have to include provisions preventing reexport of U.S. origin products and prohibitions against alternative supply of proscribed items by U.S. subsidiaries and licensees operating in third countries. Such a policy would place an economic burden on the allies and incur political costs within the alliance. The recommended solution to this dilemma is one which squares the American intention to make a strong symbolic political statement that the United States has decided to conduct its own policy in a way that isolates Qadhafi on the one hand with a prohibition of normal U.S.-Libyan commercial relations on the other hand. The US should welcome Allied support but ought not pressure them to do so. Therefore, the U.S. could explicitly exclude extraterritorial application from the regulations designed to institute the export controls being considered in this policy review.

U.S.-Libyan Relations

Libya claims to want improved relations with the U.S.; to have cancelled terrorist operations; and to dismantle terrorist camps, but these claims have not been confirmed. Colonel Qadhafi appears

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to be disconcerted and threatened by U.S. actions yet is not prepared to abandon his goals, though on the basis of firm U.S. resolve he may be willing to modify temporarily some of his more extreme methods. The private U.S. demarche increased Colonel Qadhafi's perception of threat, while the public confrontation in the Gulf of Sidra enhanced his tendency for bravado.

The World Oil Market

The economic effects of a unilateral boycott of Libyan oil on either the US or Libya remain negligible as was the case in December. Free world demand will continue to decline, and OPEC will continue to underproduce as a whole, thus minimizing the effects of a US boycott.

Relations with Regional States

Israel's application of its laws to the Golan and the US veto of sanctions against Israel in the UN have enhanced cooperation between Arab states friendly to the US such as Saudi Arabia and those that are unfriendly such as Libya. Iran's successes in the war against Iraq and Iran's assertiveness in the Gulf provide an incentive for the Arab states to close ranks. The net effect of regional developments is to increase somewhat the political costs in the region of further US actions against Libya.

Soviet Posture

Soviet propaganda has ridiculed U.S. action towards Libya and suggested that Soviet support for Qadhafi has had a sobering impact on the U.S. Nothing has occurred, however, to suggest that Moscow's basically cautious posture has changed. Preoccupation with the Polish crisis may make the Soviets less inclined to get actively involved in defending Libya, although they will continue to use the US confrontation with Libya to increase their presence there.

US Public Opinion

As a response to reports of Libyan hit squads, there would be considerable public support for an American oil boycott. There is strong opposition to US military action without a Libyan attack on US nationals or facilities.

REVALIDATION OF OIL EMBARGO AND EXPORT BAN

In light of U.S. objectives toward Libya and an awareness of the changes that have occurred in the international environment since December, the U.S. should activate and confirm the further economic measures for which the President directed the Secretary of the Treasury to initiate and coordinate preparations, that is: termination of U.S. oil imports from Libya and prohibition of U.S. exports of equipment and technology to Libya.

The discussion of a ban on Libyan oil contained in the NSC paper of December 8 continues to be valid. World oil supplies are expected to remain more than adequate to meet demand through 1982 barring unforeseen political disruptions. An embargo on US oil imports from Libya would have a minimal economic impact but would be a political statement putting Libya on notice of US resolve. The impact of a unilateral US oil boycott on the allies would be minimal because it will not affect specific allied economic concerns.

The legal authority for an oil embargo would be the International Economic Emergency Powers Act (IEEPA), and a draft Executive Order has been prepared on this basis. IEEPA gives the President broad discretionary authority to respond to "any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency" with respect to that threat. Thus, the President must find that there is an "unusual and extraordinary threat." These are words of judgment. Courts will be extremely loathe to question a reasoned decision by the President that the statutory standard has been met.

The statutory standard could be satisfied by the circumstances of U.S. relations with Libya. Libyan adventurism and support for terrorism can quite reasonably be characterized as an "unusual and extraordinary threat" to U.S. national security and foreign policy. The statute, however, requires consultations with Congress in every possible case before invoking IEEPA.

The December 8 analysis of an embargo on exports to Libya remains valid. U.S. exports through November 1981, mostly of machinery and transportation equipment, amounted to \$772 million.*

The political issues surrounding an embargo on Libya have become somewhat more sensitive than before because of the Polish crisis. The allies have criticized the extraterritorial implications of our new export controls on oil and gas technology to the Soviet Union. A new U.S. economic sanctions program against Libya, although unilateral, would raise concerns about extraterritorial application to make the embargo effective. These could add to Alliance strains and could weaken allied willingness to cooperate in economic actions against the USSR. It should be noted, however, that we can minimize conflicts with our allies by designing this option to explicitly forego extraterritorial application.

*Treasury believes this paper to understate the negative economic effects on U.S. business of an export embargo and may communicate its views to the President in a separate memorandum.

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ADDITIONAL MEASURES

Transaction Controls

IEEPA permits the President to prohibit U.S. citizens and firms from engaging in commercial transactions in Libya and with Libyans, on foreign policy grounds. Such as application of IEEPA could be undertaken in conjunction with the oil embargo and an embargo of exports or with the oil embargo alone.

Selective Export Controls

Should a decision be made not to have a total embargo or to implement transaction controls, steps could be taken to control selected exports. At present, export controls now in effect do not allow the U.S. to deny dual use technology, including computers, communications equipment, and aircraft ground equipment, destined to the Libyan government.

Export Licensing Requirements

An additional option, also in lieu of an export embargo, would be to require licensing of all items for export to Libya. A general licensing requirement could be announced as a measure to monitor exports to Libya and to provide the Administration with the authority to deny any item which could be used by Libya to support its terrorist or military activities.

Responding to Libyan Provocations

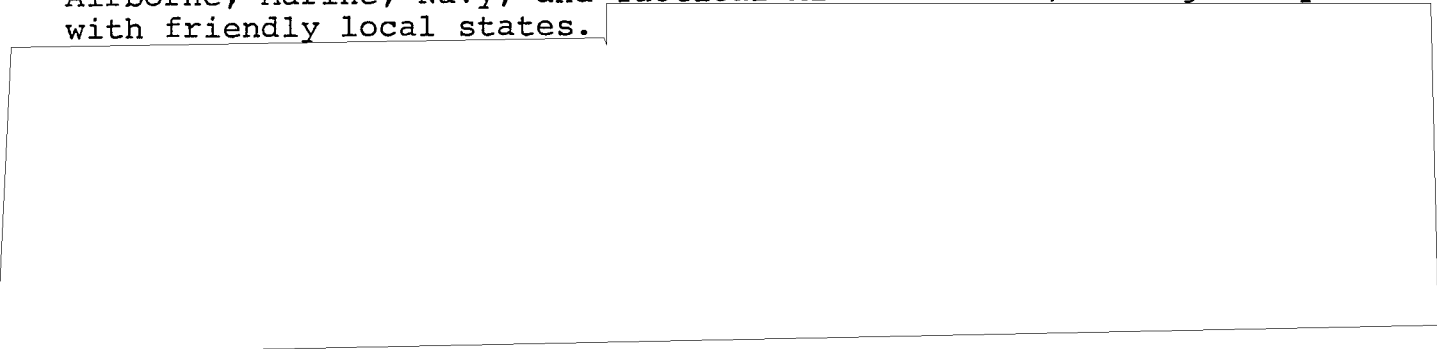
The JCS have reconfirmed that the courses of action presented in the paper for the NSC meeting of January 21, 1982 remain feasible. Soviet, regional, and allied reactions to the use of American force in response to a Libyan provocation will vary according to the nature of the Libyan attack. An attack that is unquestionably Libyan and that is extreme would result in minimal support for Libya; if the US reaction is disproportionate to the Libyan provocation, e.g., high civilian casualties, Libya would receive more support. A failed US military action would raise the costs of cooperating with the US for Arab states most willing to do so such as Egypt and Oman.

Continuing Libyan Threats in the Region could be addressed by:

1) providing greater assistance to local states threatened by Libya; 2) increasing US military presence in the area; 3) expanding military and intelligence cooperation with regional governments; and 4) engaging in joint contingency planning, at least in Egypt.

Regarding increased assistance, the allies could be asked to provide more economic assistance rather than requesting that they cooperate in a US sanctions program against Libya. An

enhanced US military presence includes a return to semi-annual exercises in the Gulf of Sidra; an increase in Special Forces, Airborne, Marine, Navy, and Tactical Air exercises, some jointly with friendly local states.



CONGRESSIONAL AND PUBLIC AFFAIRS STRATEGY

There should be a public affairs and Congressional strategy that prepares the ground for the announcement of new measures directed at Libya. The announcement should be formulated so that it reflects a balanced and well-rounded approach, rather than a set of random negative sanctions.

In preparing for the announcement of the initial decisions on Libya, there are two constraints -- time and the fear of leaks. These constraints could cause harm to American citizens in Libya and inhibit the Administration from engaging in a serious dialogue with the Congress prior to action. There are two distinct phases of consultation.

The first phase would be educational and designed to give key members a sense of involvement in our decision process and -- thereby -- a stake in the outcome. The second phase would, then, consist of standard, courtesy calls a day or so before the actual announcement of new measures.

TIMING

Except for the Gulf of Sidra exercise, the military measures are all either in various stages of implementation or are planned on a contingency basis.

Crucial decisions will have to be made regarding the timing of the economic steps. The oil embargo and export controls, if decided upon, could be implemented simultaneously for maximum impact and to demonstrate that the U.S. is ending "business as usual" with Libya. The same can be said if transaction controls are added to this list. Alternatively, there could be a phased program: oil embargo now, export embargo later, transaction controls still later.

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